

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

- against -

GARY KISS,

Defendant.

4-cr-248 (JGK)

MEMORANDUM OPINION
AND ORDER

JOHN G. KOELTL, District Judge:

In 2005, pursuant to his plea of guilty, Gary Kiss was convicted by this Court and sentenced principally to 60 months' imprisonment.

On September 8, 2020, Mr. Kiss submitted a State of New York Application By An Eligible Offender For A Certificate of Relief From Disabilities to the Court, along with a letter detailing the impressive strides he has made in his life after the Court imposed a sentence.

Under New York law, "[a]ny court of this state may, in its discretion, issue a certificate of relief from disabilities to an eligible offender for a conviction that occurred in such court." N.Y. Correct. L. § 702. That provision does not, however, include federal courts. United States v. Da Grossa, 446 F.2d 902, 903 (2d Cir. 1971). As such, this Court lacks the authority to grant the relief Mr. Kiss seeks. Accord United States v. Reich, No. 04-CR-587 (NGG), 2007 WL 2891600, at *1

(E.D.N.Y. Sept. 28, 2007); United States v. Fierman, No. 99 CR. 1086 (AKH), 2002 WL 31640575, at *1 (S.D.N.Y. Nov. 20, 2002). Pursuant to § 703 of New York Correction Law, such application must be made to the New York State Department of Corrections and Community Supervision ("DOCCS"), which the defendant did on September 8, 2020. Accordingly, Mr. Kiss's application is **denied** without prejudice to his application to the proper authorities.

SO ORDERED.

**Dated: New York, New York
September 28, 2020**

**/s/ John G. Koeltl
John G. Koeltl
United States District Judge**